IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):   Jeffrey C. Smith and Jean-Christophe Bandini

Title: POLICY ENFORCEMENT IN A SECURE DATA FILE DELIVERY SYSTEM

Application No.:	10/790,901	Filed:	March 1, 2004
Examiner:	Kari L. Schmidt	Group Art Unit:	2439
Atty. Docket No.:	127-0007-2	Confirmation No.:	2607

January 20, 2010

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REPLY AFTER NOTICE OF NON-COMPLIANT APPEAL BRIEF (37 CFR § 41.37) INCLUDING REPLACEMENT SECTION and INTERVIEW SUMMARY

This paper is responsive to the Notification of Non-Compliant Appeal Brief mailed on December 23, 2009, having a period for reply set to expire January 23, 2010. In light of this reply, Applicants respectfully request that the Examining Group's action relative to non-compliance with provisions of 37 C.F.R. § 41.37 be *withdrawn* and that the matter be passed to this Honorable Board for decision on appeal.

A replacement section entitled "Summary of Claimed Subject Matter," which is fully compliant with 37 C.F.R. § 41.37(c)(1)(v), follows.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent **claim 1** is directed to a computer readable medium useful in association with a computer which includes a processor and a memory. The computer readable medium includes computer instructions configured to cause the computer to assure adherence to a policy by a package to be delivered from a sender associated with an enterprise to one or more recipients through a computer network. The Summary, appearing at p. 3, line 7 to p. 5, line 16 of the application as filed, provides a basic, and illustrative, interplay between sender, recipients and exemplary computers, together with a general description of illustrative packages and policies.

Operation of the computer so programmed includes several aspects positively recited in the text of claim 1. In particular, in response to receipt of package data that is generated by the sender and which specifies the package, the computer applies a policy to the package wherein the policy is specified by policy data received from a policy authority of the sender. The policy authority includes a rule base associated with the sender enterprise. Thus, as presently claimed, it is a sender-centric policy framework that informs policy determinations. Operation of the computer so programmed further includes determining whether the policy permits delivery of the package. Although the nature of a "package" and application of a "policy" thereto do not appear to be in substantial dispute, operation of a package manager 302 is summarized (relative to FIG. 3) at p. 8, line 23 to p. 9 line 13 and illustrative package structures are detailed in the section entitled "Package Structure" beginning at p. 18, line 20 and continuing through p. 23. Likewise, operation of a policy manager 308 is summarized (again, relative to FIG. 3) at p. 9, line 27 to p. 11 line 9 and illustrative realizations of such are policy manager are detailed in the section entitled "Policy Manager 308" beginning at p. 23, line 18 and continuing through p. 30.

Upon a condition in which the policy permits delivery of the package, operation of the computer so programmed further includes delivery of the package by a specific technique recited in the text of claim 1. In particular, the claim language recites (1) sending notification to the recipients wherein the notification includes package identification data; and (2) responsive to receipt of the package identification data from a particular one of the recipients, providing the particular recipient with access to the package. The delivery technique is described at p. 4,

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lines 1-9 and further explained, relative to an illustrative private URL-based embodiment at p. 9, lines 14-26.

Independent **claim 27** is directed to a computer program product encoded in one or more computer readable media. In particular, the program product includes instructions executable on one or more servers interposed between a sender and one or more recipients to apply a rule based policy associated with the sender's enterprise to a package to be delivered from the sender to one or more of the recipients. Claim 27 is of different scope than claim 1; however, the aforementioned Summary, appearing at p. 3, line 7 to p. 5, line 16, again provides a basic, and illustrative, interplay between a sender, recipients and exemplary computers, together with a general description of illustrative packages and policies.

The program product includes instructions that are further executable to determine whether the policy permits delivery of the package to a particular one of the recipients, and upon determination of a condition in which the policy permits delivery of the package, executable to initiate notification of the particular recipient. The notification includes package identification data usable by the particular recipient to retrieve the package from at least one of the servers. The delivery technique is again described at p. 4, lines 1-9 and further explained, relative to an illustrative private URL-based embodiment at p. 9, lines 14-26.

Finally, independent **claim 30** is directed to a secure package delivery system. As presently claimed, the secure package delivery system includes (1) a service hosted on one or more servers and interposed between a sender and one or more recipients to apply a rule based policy associated with the sender's enterprise to a package to be delivered from the sender to one or more of the recipients; (2) a policy manager of the service; and (3) a delivery manager. Claim 30 is of different scope than claim 1 or claim 27; however, the aforementioned Summary, appearing at p. 3, line 7 to p. 5, line 16, once again provides a basic, and illustrative, interplay between a sender, recipients and exemplary computers, together with a general description of illustrative packages and policies. Furthermore, although the nature of a "package" and application of a "policy" thereto do not appear to be in substantial dispute, such terms will be understood as above.

The policy manager of the service is operable to determine whether the policy permits delivery of the package to a particular one of the recipients, and upon determination of a condition in which the policy permits delivery of the package, to initiate notification of the particular recipient. Operation of an illustrative policy manager 308 is summarized (relative to FIG. 3) at p. 9, line 27 to p. 11 line 9 and illustrative realizations of such are policy manager are detailed in the section entitled "Policy Manager 308" beginning at p. 23, line 18 and continuing through p. 30. The delivery manager is operable to transmit to the particular recipient a notification message that includes package identification data usable by the particular recipient to retrieve the package from the service. As before, such a delivery technique is described at p. 4, lines 1-9 and further explained, relative to an illustrative private URL-based embodiment at p. 9, lines 14-26.

REMARKS

The Examining Group's Notice of Non-Compliant Appeal Brief, dated December 23, 2010, in which the Office alleges that Applicant's Appeal Brief, filed October 9, 2009 fails to comply with provisions of § 41.37(c)(1)(v), is errant. Applicant respectfully requests *reconsideration* and *withdrawal* of the Notice.

In the Notice, the Office states:

> The examiner notes under Summary of Claimed Subject Matter, the appellant must explain each "dependent claim argued separately". In the instant case dependent claims 11-14 and 26 are argued separately. Appropriate action is requested.

With respect, the Office simply misstates the requirement of § 41.37(c)(1)(v). Section 41.37(c)(1)(v) requires:

- a concise explanation of subject matter for independent claims involved in the appeal; and

- identification of corresponding structures, materials or acts for independent means/step plus function claims (35 U.S.C. § 112(6)) involved in the appeal and for dependent means/step plus function claims that are separately argued.

Both the SUMMARY OF CLAIMED SUBJECT MATTER originally included with the Appeal Brief, filed October 9, 2009, and the *replacement section* included hereinabove fully comply with requirements of § 41.37(c)(1)(v). Office Notice notwithstanding, there is no requirement to provide a concise explanation of separately argued dependent claims, generally, or in particular with respect to complained of claims 14-16 and 26.

To be clear, the notice of non-compliance is facially errant and indeed, as summarized below, such error has been acknowledged by the Office. Unfortunately (to date), no action has been taken by the Office to withdraw the errant notice. Accordingly, out of abundance of caution, this reply is now filed. Whether as a result of this reply or otherwise, the errant notice should be promptly withdrawn.
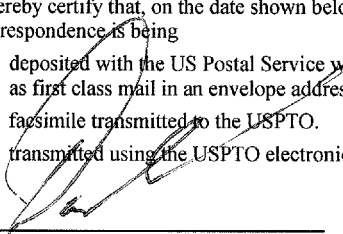
Interview Summary

On 7 January 2010, the undersigned spoke with Examiner Schmidt regarding the present Notice of Non-Compliant Appeal Brief. Upon review of the applicable provisions of § 41.37(c)(1)(v), Examiner Schmidt acknowledged that the Notice of Non-Compliant Appeal Brief was in error. After discussing internal USPTO procedural options for withdrawing the errant notice, Examiner Schmidt agreed to make the withdrawal of record in an Interview Summary. Unfortunately, as of the data is this reply, no such Interview Summary has been received by Applicants. Accordingly, out of an abundance of caution, Applicants have filed the present reply and include this Interview Summary to complete the record.

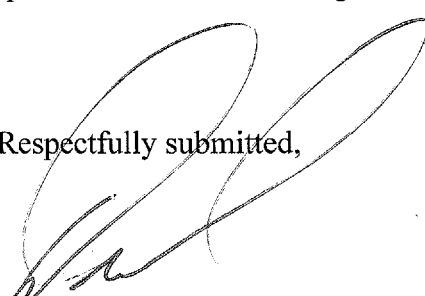## *Renewed Request that Allowance of Claims 1-26 be Made of Record*

Finally, as summarized in Applicant's 15 December 2009 Summary of Examiner Initiated Interview, the Office has indicated that claims 1-26 are allowable. ***Applicant respectfully requests that the allowance of claims 1-26 be made of record.***

Summary

In summary, claims 1-33 and 36-38 stand rejected and are the subject of the present appeal. All claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

Respectfully submitted,

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